

**To:** Weiss, Leanne (ECY)[lewe461@ECY.WA.GOV]; Mann, Laurie[mann.laurie@epa.gov]; Cope, Ben[Cope.Ben@epa.gov]; akol461@ecy.wa.gov[akol461@ecy.wa.gov]; Bilhimer, Dustin (ECY)[DBIL461@ECY.WA.GOV]  
**From:** Zell, Christopher  
**Sent:** Wed 1/18/2017 12:56:56 AM  
**Subject:** RE: Agenda for discussion tomorrow.

Thank you for sending this along Leanne, much appreciated! If not too much trouble, perhaps we could further discuss stormwater modeling that we touched upon in our last meeting?

Looking forward to our chat,

Chris

**From:** Weiss, Leanne (ECY) [mailto:lewe461@ECY.WA.GOV]  
**Sent:** Tuesday, January 17, 2017 4:49 PM  
**To:** Zell, Christopher <zell.christopher@epa.gov>; Mann, Laurie <mann.laurie@epa.gov>; Cope, Ben <Cope.Ben@epa.gov>; akol461@ecy.wa.gov; Bilhimer, Dustin (ECY) <DBIL461@ECY.WA.GOV>  
**Subject:** Agenda for discussion tomorrow.

Hi everyone:

I do not have any new items for discussion this week. Are there any new items from EPA? If not, we can keep it short – here are some items on my radar for follow up.

- Ecology can give a brief update on our discussion with the modeling team about modeling for aesthetic uses (and model capabilities).
- We'd also like to further discuss the interpretation of the section in ruling on pg. 36. (Section pasted below.) How can we get more clarity on this?

“Absent statutory or regulatory support, Municipal Intervenor point to previous EPA-approved TMDLs to argue that a requirement to address all designated uses “is completely inconsistent with decades of implementation of both the listing and TMDL development aspects of the national impaired waters program.” Municipal Cross-Mtn. at 8. Momentarily setting aside the dearth of EPA regulations or guidance endorsing partial-TMDLs, a number of TMDLs that Municipal Intervenor reference are not entirely consistent with this assertion. For example, EPA’s decision approving a TMDL for fecal coliform bacteria in the Anacostia focused only on the District’s Class A and Class B recreational and aesthetic uses, but explained that this was because “standards for fecal coliform *only* apply to Class A and B uses since exposure to bacteria is normally expressed through illnesses related to human contact.” EPA, Decision Rationale for TMDLs for Fecal Coliform Bacteria 21 n.21, Oct. 16, 2003, *available at* [http://ddoe.dc.gov/ddoe/frames.asp?doc=/ddoe/lib/ddoe/tmdl/tmdl\\_decision.pdf](http://ddoe.dc.gov/ddoe/frames.asp?doc=/ddoe/lib/ddoe/tmdl/tmdl_decision.pdf) (emphasis added). Similarly, EPA’s decision approving a TMDL for dissolved oxygen in the Anacostia relies on water quality criteria for the District’s Class C use, but this was because EPA “does not consider that low dissolved oxygen levels, in and of themselves, affect primary and secondary recreational uses.” EPA, Decision Rationale for TMDLs for Biochemical Oxygen Demand, 22 n.14, *available at* [http://ddoe.dc.gov/ddoe/frames.asp?doc=/ddoe/lib/ddoe/tmdl/amend\\_ana\\_om.pdf](http://ddoe.dc.gov/ddoe/frames.asp?doc=/ddoe/lib/ddoe/tmdl/amend_ana_om.pdf). In both cases, EPA explicitly found that certain pollutants have no effect on particular designated uses, and an implicit result of that finding is that the TMDL necessarily sets a pollutant load limit protective of such uses.”

**January 18<sup>th</sup>, 2:00**

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